

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-against-

GINO BRUNETTI a/k/a Herbert
Alberto Cruz-Ruiz,

Defendant.
-----X

USDC SDNY
DOCUMENT
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DATE FILED: 5/5/2021

No. 01 Cr. 257 (JFK)

ORDER

JOHN F. KEENAN, United States District Judge:

On April 9, 2021, the Court denied Defendant Gino Brunetti's pro se motion for compassionate release. (ECF No. 314.) On April 26, 2021, Brunetti filed a notice of appeal, and the following day, he filed a motion requesting the Court issue a certificate of appealability with regards to his recently denied motion for compassionate release. (ECF Nos. 316, 317.) Notwithstanding his appeal of the Court's April 9, 2021 Opinion & Order denying his request for compassionate release, on April 30, 2021, the Court received a motion for reconsideration from Brunetti.

As a general matter, "a federal district court and a federal court of appeals should not attempt to assert jurisdiction over a case simultaneously." Griggs v. Provident Consumer Disc. Co., 459 U.S. 56, 58 (1982). Indeed, "[t]he filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of

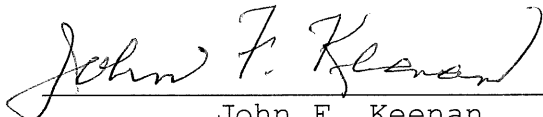
the case involved in the appeal." Id. Accordingly, the Court does not have jurisdiction to decide Brunetti's recently filed motion for reconsideration and it is DENIED on these grounds.

It is FURTHER ORDERED that Brunetti's request for a certificate of appealability—which is not necessary as this is not a habeas corpus proceeding—is nevertheless DENIED because Brunetti has not made a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); Krantz v. United States, 224 F.3d 125, 127 (2d Cir. 2000).

The Court will mail a copy of this Order to Brunetti today. The Clerk of Court is directed to terminate the motion docketed at ECF No. 317.

SO ORDERED.

Dated: New York, New York
May 5, 2021



John F. Keenan
United States District Judge